

REMARKS

I. Status of Claims

Claims 15-19 are pending in the application. Claims 15, 16, 18, and 20 are independent. Claims 16, 18 and 19 are allowed.

Claims 15 and 17 stand rejected under 35 USC 102(b) as allegedly being anticipated by Banhardt et al (DE 101 27 322) (hereinafter "Banhardt").

Claims 15 and 17 stand rejected under 35 USC 102(e) as allegedly being anticipated by Debe et al (USP 6,780,536) (hereinafter "Debe").

Claims 15 and 17 stand rejected under 35 USC 102(b) and 103(a) as allegedly being anticipated by, and alternatively allegedly unpatenable over Kosugi et al. (JP 2001-043870) (hereinafter "Kosugi").

Claims 20-23 were withdrawn by the Examiner as being constructively elected by original presentation and by this amendment are canceled without prejudice to and/or disclaimer of the subject matter therein. The Applicant respectfully reserves the right to file one or more divisional application(s) directed to the non-elected subject matter in accordance with the provisions of 35 U.S.C. § 121.

The Applicant respectfully requests reconsideration of the rejections in view of the following remarks.

II. Allowable Subject Matter

Claims 16, 18 and 19 are allowed.

III. Pending Claims

Claims 15 and 17 stand rejected under 35 USC 102(b)(e), and 103(a) as allegedly being anticipated/unpatentable by/over Banhardt, Debe, and Kosugi, respectively.

The Applicant respectfully submits that claim 15, the only independent claim which remains rejected, is patentable over the cited references at least because it recites, "the cross-sectional area of the gas passage is changed by changing a radius of curvature of at least one curved portion and the gas

passage groove increases in width in a direction towards the MEA to form a fuel or oxidizing gas passage.”

The Applicant respectfully submits that none of the cited references describe changing the cross sectional area of a gas passage by changing a radius of curvature of the curve portion which is formed on a transition portion between a side surface of the gas passage groove and a bottom surface of the gas passage groove in the manner as claimed by the Applicant in the invention of claim 15.

For example, with respect to Kosugi, this reference describes that the cross-sectional configuration of the cited groove(s) 4 may be a circle (curved corners between bottom and side surfaces of the groove) or other configuration. However, in contrast to certain embodiments of the present invention, the concept of changing the cross sectional area of the gas passage by changing a radius of curvature of the curve portion is not described.

Regarding Debe, the Applicant respectfully submits that this reference simply does not describe a gas passage groove and MEA arrangement as claimed.

Lastly, with respect to Banhardt, the Applicant respectfully submits that this reference also does not disclose the gas passage groove and MEA arrangement as claimed. As pointed out in the previous response, the Office Action cites FIGS. 4 and 5 of Banhardt; however, the grooves cited in these figures do not increase in width in a direction towards the MEA to form a fuel or oxidizing gas passage as required by the invention of Applicant's claim 15.

Further, Kosugi, Debe, Banhardt, nor any of the other cited references identify a reason why one having ordinary skill in the art would modify these references in the manner as claimed by the Applicant. As discussed in *KSR Int'l Co. v. Teleflex, et al.*, No. 04-1350, (U.S. Apr. 30, 2007), the Applicant respectfully submits that it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to combine alleged prior art elements in the manner as claimed by the Applicant and it is respectfully submitted that obviousness cannot be sustained on mere conclusory statements.

In addition, claim 17 further distinguishes the present invention from the cited references. For instance, the tendencies of the changes in the cross sectional areas of the gas passages between certain embodiments of the present invention and Banhardt are inverted. In the invention of claim 17, the cross sectional area of the gas passage is larger at the inlet side, but in Banhardt, the cross sectional area of the gas passage is smaller at the inlet side.

Therefore, the Applicant respectfully submits that, for at least these reasons, claim 15, as well as dependent claim 17, are also patentable over the cited references.

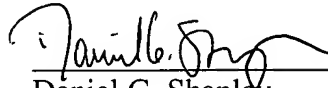
IV. Conclusion

In view of the foregoing discussion, the Applicant respectfully submits that the present application is in all aspects in allowable condition. Favorable reconsideration and early issuance of a Notice of Allowance are therefore respectfully requested.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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